

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3289

By: Hilbert

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6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2021, Section 2357.22, as last amended by
9 Section 1, Chapter 215, O.S.L. 2023 (68 O.S. Supp.
10 2023, Section 2357.22), which relates to tax credits
11 for investment in certain clean-burning motor vehicle
fuel property; providing for reallocation of unused
tax credits; prescribing method for reallocation; and
providing an effective date.

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16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.22, as
18 last amended by Section 1, Chapter 215, O.S.L. 2023 (68 O.S. Supp.
19 2023, Section 2357.22), is amended to read as follows:

20 Section 2357.22 A. For tax years 2028 and before, there shall
21 be allowed a one-time credit against the income tax imposed by
22 Section 2355 of this title for investments in qualified clean-
23 burning motor vehicle fuel property placed in service on or after
24 January 1, 1991.
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1 B. As used in this section, "qualified clean-burning motor
2 vehicle fuel property" means:

3 1. Equipment installed to modify a motor vehicle which is
4 propelled by gasoline or diesel fuel so that the vehicle may be
5 propelled by compressed natural gas, liquefied natural gas, or
6 liquefied petroleum gas. The equipment covered by this paragraph
7 must:

- 8 a. be new, not previously used to modify or retrofit any
9 vehicle propelled by gasoline or diesel fuel and be
10 installed by an alternative fuels equipment technician
11 who is certified in accordance with the Alternative
12 Fuels Technician Certification Act,
13 b. meet all Federal Motor Vehicle Safety Standards set
14 forth in 49 CFR 571, or
15 c. for any commercial motor vehicle (CMV), follow the
16 Federal Motor Carrier Safety Regulations or Oklahoma
17 Intrastate Motor Carrier Regulations;

18 2. A motor vehicle originally equipped so that the vehicle may
19 be propelled by compressed natural gas, or liquefied natural gas or
20 liquefied petroleum gas but only to the extent of the portion of the
21 basis of such motor vehicle which is attributable to the storage of
22 such fuel, the delivery to the engine of such motor vehicle of such
23 fuel, and the exhaust of gases from combustion of such fuel;
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1 3. Property, not including a building and its structural
2 components, which is:

- 3 a. directly related to the delivery of compressed natural
4 gas, liquefied natural gas or liquefied petroleum gas,
5 or hydrogen for commercial purposes or for a fee or
6 charge, into the fuel tank of a motor vehicle
7 propelled by such fuel including compression equipment
8 and storage tanks for such fuel at the point where
9 such fuel is so delivered but only if such property is
10 not used to deliver such fuel into any other type of
11 storage tank or receptacle and such fuel is not used
12 for any purpose other than to propel a motor vehicle,
13 or
14 b. a metered-for-fee, public access recharging system for
15 motor vehicles propelled in whole or in part by
16 electricity. The property covered by this paragraph
17 must be new, and must not have been previously
18 installed or used to refuel vehicles powered by
19 compressed natural gas, liquefied natural gas or
20 liquefied petroleum gas, hydrogen, or electricity.

21 Any property covered by this paragraph which is related to the
22 delivery of hydrogen into the fuel tank of a motor vehicle shall
23 only be eligible for tax years 2010 and 2023 through 2028;
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1 4. Property which is directly related to the compression and
2 delivery of natural gas from a private home or residence, for
3 noncommercial purposes, into the fuel tank of a motor vehicle
4 propelled by compressed natural gas. The property covered by this
5 paragraph must be new and must not have been previously installed or
6 used to refuel vehicles powered by natural gas; or

7 5. For tax years 2010 and 2023 through 2028, a motor vehicle
8 originally equipped so that the vehicle may be propelled by a
9 hydrogen fuel cell electric fueling system.

10 C. As used in this section, "motor vehicle" means a motor
11 vehicle originally designed by the manufacturer to operate lawfully
12 and principally on streets and highways.

13 D. The credit provided for in subsection A of this section
14 shall be as follows:

15 1. For the qualified clean-burning motor vehicle fuel property
16 defined in paragraphs 1, 2, or 5 of subsection B of this section,
17 the amount of the credit shall be as follows based upon gross
18 vehicle weight of the qualified vehicle:

19 a. for vehicles up to or below six thousand (6,000)
20 pounds, the credit shall be a maximum of Five Thousand
21 Five Hundred Dollars (\$5,500.00),

22 b. for vehicles between six thousand one (6,001) pounds
23 to ten thousand (10,000) pounds, the credit shall be a
24 maximum amount of Nine Thousand Dollars (\$9,000.00),
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- 1 c. for vehicles of ten thousand one (10,001) pounds, but
2 not in excess of twenty-six thousand five hundred
3 (26,500) pounds, the credit shall be a maximum amount
4 of Twenty-six Thousand Dollars (\$26,000.00), and
5 d. for vehicles in excess of twenty-six thousand five
6 hundred one (26,501) pounds, the credit shall be a
7 maximum amount of One Hundred Thousand Dollars
8 (\$100,000.00);

9 2. For qualified clean-burning motor vehicle fuel property
10 defined in paragraph 3 of subsection B of this section, a per-
11 location credit of forty-five percent (45%) of the cost of the
12 qualified clean-burning motor vehicle fuel property; and

13 3. For qualified clean-burning motor vehicle fuel property
14 defined in paragraph 4 of subsection B of this section, a per-
15 location credit of the lesser of fifty percent (50%) of the cost of
16 the qualified clean-burning motor vehicle fuel property or Two
17 Thousand Five Hundred Dollars (\$2,500.00).

18 E. In cases where no credit has been claimed pursuant to
19 paragraph 1 of subsection D of this section by any prior owner and
20 in which a motor vehicle is purchased by a taxpayer with qualified
21 clean-burning motor vehicle fuel property installed by the
22 manufacturer of such motor vehicle and the taxpayer is unable or
23 elects not to determine the exact basis which is attributable to
24 such property, the taxpayer may claim a credit in an amount not
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1 exceeding the lesser of ten percent (10%) of the cost of the motor
2 vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

3 F. If the tax credit allowed pursuant to subsection A of this
4 section exceeds the amount of income taxes due or if there are no
5 state income taxes due on the income of the taxpayer, the amount of
6 the credit not used as an offset against the income taxes of a
7 taxable year may be carried forward, in order, as a credit against
8 subsequent income tax liability for a period not to exceed five (5)
9 years. The tax credit authorized pursuant to the provisions of this
10 section shall not be used to reduce the tax liability of the
11 taxpayer to less than zero (0).

12 G. A husband and wife who file separate returns for a taxable
13 year in which they could have filed a joint return may each claim
14 only one-half (1/2) of the tax credit that would have been allowed
15 for a joint return.

16 H. The Oklahoma Tax Commission is herein empowered to
17 promulgate rules by which the purpose of this section shall be
18 administered including the power to establish and enforce penalties
19 for violations thereof.

20 I. Notwithstanding the provisions of Section 2352 of this
21 title, for the fiscal year beginning on July 1, 2014, through fiscal
22 year 2023, the Tax Commission shall calculate an amount that equals
23 five percent (5%) of the cost of qualified clean-burning motor
24 vehicle fuel property as provided for in paragraph 1 of subsection D

1 of this section for tax year 2012. For each subsequent fiscal year
2 thereafter, the Tax Commission shall perform the same computation
3 with respect to the second tax year preceding the beginning of each
4 subsequent fiscal year. For fiscal year 2024, the Tax Commission
5 shall calculate an amount that equals twelve percent (12%) of the
6 credit for qualified clean-burning motor vehicle fuel property as
7 provided in paragraph 1 of subsection D of this section for tax year
8 2021. For each subsequent fiscal year, the Tax Commission shall
9 perform the same calculation for credits claimed in the second
10 preceding tax year. The Tax Commission shall then transfer an
11 amount equal to the amount calculated in this subsection from the
12 revenue derived pursuant to the provisions of subsections A, B and E
13 of Section 2355 of this title to the Compressed Natural Gas
14 Conversion Safety and Regulation Fund created in Section 130.25 of
15 Title 74 of the Oklahoma Statutes.

16 J. For the tax years 2020 through 2022, the total amount of
17 credits authorized by this section used to offset tax shall be
18 adjusted annually to limit the annual amount of credits to Twenty
19 Million Dollars (\$20,000,000.00). The Tax Commission shall annually
20 calculate and publish by the first day of the affected taxable year
21 a percentage by which the credits authorized by this section shall
22 be reduced so the total amount of credits used to offset tax does
23 not exceed Twenty Million Dollars (\$20,000,000.00) per year. The
24 formula to be used for the percentage adjustment shall be Twenty
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1 Million Dollars (\$20,000,000.00) divided by the credits claimed in
2 the second preceding year, with respect to any changes to the future
3 of the credit.

4 K. Pursuant to subsection J of this section, in the event the
5 total tax credits authorized by this section exceed Twenty Million
6 Dollars (\$20,000,000.00) in any calendar year, the Tax Commission
7 shall permit any excess over Twenty Million Dollars (\$20,000,000.00)
8 but shall factor such excess into the percentage adjustment formula
9 for subsequent years with respect to any changes to the future of
10 the credit.

11 L. ~~For~~ Except as otherwise provided by this subsection, for the
12 tax years 2023 through 2028, the total amount of credits authorized
13 by this section used to offset tax shall be adjusted annually to
14 limit the annual amount of credits to:

15 1. Ten Million Dollars (\$10,000,000.00) for qualified clean
16 burning fuel property propelled by compressed natural gas, liquefied
17 natural gas, or liquefied petroleum gas, property related to the
18 delivery of compressed natural gas, liquefied natural gas or
19 liquefied petroleum gas, and property directly related to the
20 compression and delivery of natural gas;

21 2. Ten Million Dollars (\$10,000,000.00) for property originally
22 equipped so that the vehicle may be propelled by a hydrogen fuel
23 cell electric fueling system and property directly related to the
24 delivery of hydrogen; and
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1 3. Ten Million Dollars (\$10,000,000.00) for property which is a
2 metered-for-fee, public access recharging system for motor vehicles
3 propelled in whole or in part by electricity.

4 If one of the tax credit pools as described in paragraphs 1
5 through 3 of this subsection is not fully utilized for the
6 applicable tax year, the remaining balance of that pool shall be
7 allocated to each of the two remaining tax credit pools in equal
8 amounts. If two of the tax credit pools as described in paragraphs
9 1 through 3 of this subsection are not fully utilized for the
10 applicable tax year, the remaining balances in both pools shall be
11 added together and the sum of those amounts shall be allocated to
12 the remaining tax credit pool.

13 The Tax Commission shall annually calculate and publish by the
14 first day of the affected taxable year a percentage by which the
15 credits authorized by this section shall be reduced so the total
16 amount of credits used to offset tax does not exceed each of the
17 limits provided in paragraphs 1 through 3 of this subsection. The
18 formula to be used for the percentage adjustment shall be Ten
19 Million Dollars (\$10,000,000.00) divided by the credits claimed in
20 the second preceding year, with respect to any changes to the future
21 of the credit.

22 M. Pursuant to subsection L of this section, in the event the
23 tax credits authorized by this section exceed any of the limits
24 provided in paragraphs 1 through 3 of subsection L of this section

1 in any year, the Tax Commission shall permit any excess over Ten
2 Million Dollars (\$10,000,000.00) but shall factor such excess into
3 the percentage adjustment formula for subsequent years with respect
4 to any changes to the future of the credit.

5 N. The Tax Commission shall notify the Office of the State
6 Secretary of Energy and Environment at any time when the amount of
7 claims for credits allowed pursuant to this section reaches eighty
8 percent (80%) of the total annual limit provided in subsection J of
9 this section. Upon such notification, the Secretary shall provide
10 notice to the Governor, President Pro Tempore of the Senate and
11 Speaker of the House of Representatives.

12 SECTION 2. This act shall become effective November 1, 2024.

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